

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS H. WENDT,

Petitioner,

v.

CASE NO. 05-CV-60135-AA
HON. JOHN CORBETT O'MEARA

STATE OF MICHIGAN and
TWENTY-FIRST CIRCUIT COURT,

Respondents.

**ORDER EXTENDING THE TIME TO CURE THE DEFICIENCY AND ORDERING
PETITIONER TO FILE AN AMENDED PLEADING WITHIN TWENTY-ONE DAYS**

This is a *pro se* habeas corpus action under 28 U.S.C. § 2254. Petitioner is a state prisoner who initiated this action on June 14, 2005, by filing a motion for relief from judgment, an application to proceed *in forma pauperis*, and a petition for appointment of counsel. The motion for relief from judgment consisted of a state court form used to file post-conviction motions under Michigan Court Rule 6.502. On receipt of the motion, United States Magistrate Judge R. Steven Whalen concluded that Petitioner was attempting to challenge his state convictions for first-degree murder and felony firearm. Consequently, on July 6, 2005, Magistrate Judge Whalen ordered Petitioner to complete and submit a habeas corpus petition on a form approved by this District. Magistrate Judge Whalen stated that he was enclosing a blank petition with a copy of his order and that Petitioner should complete and return the petition within twenty-one days. Because the Court did not receive a response from Petitioner, the Court dismissed the case without prejudice on September 20, 2005.

On October 3, 2005, Petitioner wrote a letter in which he explained to the Court that he

did respond to Magistrate Judge Whalen's order and that he made the necessary corrections.

Attached to Petitioner's letter is a copy of a certified mail receipt, which indicates that mail addressed to the Clerk of Court was received on July 26, 2005. Petitioner alleges that he has had problems with his incoming and outgoing mail. He has asked the Court to reinstate this action and to send his mail to a third party.

The Court has been unable to find Petitioner's response to Magistrate Judge Whalen's order. However, in light of Petitioner's allegations, the Court will extend the time for curing the deficient pleading. Petitioner is ORDERED to complete and submit the enclosed application for a writ of habeas corpus within **twenty-one (21) days** of the date of this order. Upon receipt of the completed form and two copies of it, the Court will screen the habeas petition and decide whether to reinstate this action. Petitioner's request to have the Court mail its orders to a third party is DENIED.

s/John Corbett O'Meara
JOHN CORBETT O'MEARA
UNITED STATES DISTRICT JUDGE

Dated: December 6, 2005